Filed 6/7/10 P. v. Donalson CA1/1

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE, Plaintiff and Respondent, v. JOSEPH RANDALL DONALSON, Defendant and Appellant.	A126451 (Contra Costa County Super. Ct. No. 05-080813-9)

Defendant Joseph Randall Donalson appeals from a judgment of conviction entered upon a no contest plea. His counsel has filed a brief raising no issues and asks this court to conduct an independent review of the record to identify any issues that could result in reversal or modification of the judgment if resolved in defendant's favor. (*People v. Kelly* (2006) 40 Cal.4th 106; *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*); see *Smith v. Robbins* (2000) 528 U.S. 259.) Counsel declares he notified defendant that he could file a supplemental brief raising any issues he wishes to call to this court's attention. No supplemental brief has been received. Upon independent review of the record, we conclude no arguable issues are presented for review and affirm.

PROCEDURAL HISTORY

Defendant was charged by complaint filed on June 30, 2006, with one felony count of manufacturing methamphetamine (Health & Saf. Code, § 11379.6, subd. (a)), one felony count of possessing components to manufacture methamphetamine (Health & Saf. Code, former § 11383, subd. (c)(1)), one felony count of transporting methamphetamine (Health & Saf. Code, § 11379, subd. (a)), and one felony count of

possessing methamphetamine for sale (Health & Saf. Code, § 11378). The complaint further alleged one prior serious felony conviction within the meaning of the "Three Strikes Law" (Pen. Code,[1] §§ 667, subds. (b)–(i), 1170.12).

Defendant filed a motion to dismiss the charges against him on speedy trial grounds in February 2008. While this motion was pending, the court held a preliminary hearing on the charges against defendant. At the conclusion of the hearing, the court found the evidence in support of the charge that defendant possessed components to manufacture methamphetamine insufficient, and held defendant to answer on the three remaining counts.

The prosecution filed an information against defendant on July 10, 2008, realleging each count and allegation of the complaint, and adding an allegation of a second prior serious felony conviction within the meaning of the Three Strikes Law (§§ 667, subds. (b)–(i), 1170.12).

In August 2008, the court denied defendant's speedy trial dismissal motion. In May 2009, defendant filed a motion to suppress under section 1538.5. The trial court denied the motion in July 2009, and defendant's ensuing petition for writ of mandate to this court challenging the denial of his suppression motion was summarily denied on August 19, 2009.

In October 2009, defendant agreed to change his plea pursuant to a negotiated disposition of the charges. He agreed to plead no contest to manufacturing methamphetamine and to accept a five-year, middle-term sentence on that count, to run concurrently with a 25-years-to-life prison sentence he was already serving in a separate case out of Sacramento. In return for defendant's change of plea, the remaining counts and prior conviction allegations were to be dismissed. At the change-of-plea hearing, defense counsel stipulated based on his review of the preliminary hearing transcript and police reports that there was a factual basis for defendant's no contest plea.

[1] All further statutory references are to the Penal Code unless otherwise specified.

After receiving advisements from counsel and the court, defendant pled no contest to manufacturing methamphetamine. The trial court imposed the concurrent five-year prison sentence, as agreed, and awarded defendant 1,202 days of actual credit for time served and 601 days of conduct credit. The court imposed a $200 restitution fine (§ 1202.4, subd. (b)), a $570 drug program fee (Health & Saf. Code, § 11372.7, subd. (a)), a $30 court security fee (§ 1465.8), a $30 criminal conviction assessment (Gov. Code, § 70373), a $500 methamphetamine manufacture fine (Health & Saf. Code, § 11379.6, subd. (a)), and a $190 drug laboratory fee (Health & Saf. Code, § 11372.5).[2]

Defendant did not obtain a certificate of probable cause to challenge the validity of his plea. Defendant filed a timely notice of appeal from the denial of his motion to suppress evidence on October 14, 2009.

FACTS[3]

About 2:00 p.m. on January 17, 2006, City of Concord Police Officer Daniel Golinveaux was in a 7-Eleven store in Concord. He was uniformed and on duty. Golinveaux saw defendant standing in the parking lot and recognized him from prior contacts, including a case involving the possession for sale of methamphetamine. Golinveaux had extensive police training and experience regarding the possession and sale of methamphetamine, and had been qualified by courts of law as an expert multiple times on methamphetamine sales and the manufacture of methamphetamine. Golinveaux observed defendant make what the officer believed to be a quick, hand-to-hand drug transaction with an unidentified male. However, he could not see what item had been transferred between the two men. After the exchange, Golinveaux saw defendant and a third man (Gary Darst) get into a truck together and drive off.

Golinveaux left the store and followed defendant's truck in his patrol car. While following the truck, Golinveaux ran a check of the truck's license plates, which indicated that the vehicle's registration had expired a few months earlier. When Golinveaux got

[2] See *Wende* Findings, *post*.

[3] The following factual summary is drawn from the transcript of the hearing on defendant's motion to suppress evidence.

close enough to the truck, he activated his overhead emergency lights and initiated a traffic stop of the truck based on the expired registration. Defendant told Golinveaux he did not have his driver's license with him and admitted his license had been suspended. Dispatch confirmed this.

Golinveaux had defendant step out of the vehicle, intending to impound it under Vehicle Code section 22651, subdivision (p), due to his driving with a suspended license.[4] While escorting defendant toward the rear of his pickup truck, Golinveaux smelled strong chemical odors coming from his person that he recognized as odors he had smelled in numerous methamphetamine labs. In response to Golinveaux's questions, defendant denied having any drugs on him and denied smelling like a methamphetamine lab.

Golinveaux placed defendant under arrest for driving with a suspended license. Golinveaux conducted a search of defendant's person incident to his arrest, and discovered a digital scale in his jacket pocket and $1,439 in cash in his wallet and pockets.

Golinveaux testified that Concord had a policy of documenting the condition and contents of an impounded vehicle for the protection of the owner. After defendant was placed in the backseat of a patrol car, Golinveaux began searching the truck in order to inventory and record the items present. In the truck's cab, he found a bottle of Red Devil Lye, a bottle of hydrogen peroxide, and plastic tubing. Inside a bag in the bed of the truck, Golinveaux found "stained rubber gloves and coffee filters." Upon opening the bag, Golinveaux could smell even a stronger chemical odor that he associated with methamphetamine labs. In other bags, Golinveaux found numerous other items—including empty boxes for cold pills containing pseudoephedrine and bottles of tincture of iodine— that, in his opinion, were commonly used in the manufacture of methamphetamine. Following the search, the truck was towed to the Concord Police

[4] Vehicle Code section 22651, subdivision (p), generally authorizes a police officer to impound a vehicle when the officer issues the driver of the vehicle a notice to appear for driving with a suspended license.

Department instead of being taken to an impound lot due to the evidence discovered in the truck.

After defendant was placed under arrest, Officer Sam Staten of the Concord Police Department arrived at the traffic stop to assist Golinveaux. Golinveaux informed Staten that he thought he had seen meth lab materials in the back of defendant's pickup truck. Golinveaux turned defendant over to Staten and asked him to transport defendant to jail and conduct a visual and strip search of him. Once at the jail, Staten uncuffed defendant, searched his belongings, and took them into custody. He noticed a wet substance on defendant's jacket, and asked defendant about it. Defendant told him he had spilled a Slurpee on his jacket. Staten believed the substance smelled like fingernail polish.

Staten then moved defendant to a private cell in order to conduct a strip search. As defendant removed his pants and underwear, Staten observed a plastic baggie fall to the ground in front of him. When the item fell, defendant said, "Oops, but I don't have anything else." Staten described the item as "a clear plastic sandwich baggie that had a crystal-like substance," which he believed based on his training and experience to be a usable amount of methamphetamine.

In denying defendant's motion to suppress, the trial court found that the traffic stop itself—although perhaps pretextual—was constitutionally valid due to defendant's Vehicle Code violation of having an expired registration. The court cited the inevitable discovery doctrine to uphold the strip search of defendant's person in the county jail. The court made no specific ruling explaining why the search of the truck was valid.

***WENDE* FINDINGS**

We have reviewed the record on appeal. By entering a plea of nolo contendere, defendant admitted the sufficiency of the evidence establishing the crimes, and therefore is not entitled to review of any issue that goes to the question of whether he is guilty or not guilty. (*People v. Hunter* (2002) 100 Cal.App.4th 37, 42.) Without a certificate of probable cause, defendant cannot contest the validity of his plea; the only issues cognizable on appeal are issues relating to the validity of a denial of a motion to suppress

or issues relating to matters arising after the plea was entered. (§ 1237.5; Cal. Rules of Court, rule 8.304(b)(4).)

The trial court did not err in denying defendant's motion to suppress. The police did not violate defendant's Fourth Amendment rights by initiating a traffic stop, detaining or arresting him, searching his vehicle and its contents, or strip-searching him at the jail. The evidence obtained as a result of these actions was admissible against him.

There were no errors in sentencing.

We find no arguable issues that require further briefing and, accordingly, affirm the judgment. The clerk of the Contra Costa County Superior Court is directed on remand to correct a typographical error in the abstract of judgment to reflect that the $190 lab fee is imposed pursuant to Health and Safety Code section 11372.5, instead of section 11372. The clerk is further directed to send a copy of the corrected abstract of judgment to the Department of Correction and Rehabilitation.

_____
Margulies, J.

We concur:

_____
Marchiano, P.J.

_____
Dondero, J.